

Application No. 10/802,599  
Amendment dated May 29, 2008  
Reply to Office action dated January 30, 2008

## **REMARKS/ARGUMENTS**

This amendment is in response to the office action mailed January 30, 2008. Claims 1-13 were the subject of the office action. Applicant has added new claims 54-57. Therefore, claims 1-13 and 54-57 are pending in the application.

### **Claim Rejections- 35 USC §102**

The Examiner rejected claims 1-13 under 35 USC §102(b) as being anticipated by *Introducing The Best Thing To Happen To Ribs Since Eve* and DINNER HOUSE RIB SMOKER OVEN. Applicant traverses the rejections. To anticipate the claims, the references must disclose each and every element of the claims. *Scripps Clinic. & Res. Found. v. Genentech, Inc.* , 927 F.2d 1565, 1576 (Fed.Cir.1991). The cited references do not disclose each and every element of the claims, particularly independent claim 1 and new independent claim 54.

Submitted herewith as Exhibit A is the Declaration of Michael L. Robertson Under 37 C.F.R. §1.132. Mr. Robertson is the inventor of the subject matter of the instant application. (Robertson Decl. ¶1). He is the president of YieldKing LLC, the company that makes cooking apparatus made in accordance with the invention. (Robertson Decl. ¶2). He also is the President of B.B. Robertson, Inc. d/b/a Southern Pride, which also manufactures cooking and smoking apparatus. (Robertson Decl. ¶2). Mr. Robertson has reviewed the Office Action dated January 30, 2007 as well as the cited prior art

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references. (Robertson Decl. ¶3). The prior art publications cited by the Examiner were produced and distributed by Southern Pride. (Robertson Decl. ¶4). Mr. Robertson is familiar with the contents of the publications. (Robertson Decl. ¶5). He also is familiar with the construction and operation of the ovens illustrated in the cited publications. (Robertson Decl. ¶6).

The claimed invention includes a number of features (elements) not disclosed or even suggested by the prior art. (Robertson Decl. ¶6). For example, the prior art references do not disclose an internal collection pan beneath the cooking racks that extends almost the entire width of the cooking racks. (Robertson Decl. ¶7). The cited references do not disclose any internal collection pan. The cited prior art shows an oven that has a steam pan at the bottom of the cooking chamber. (Robertson Decl. ¶¶ 8, 9). Generally the prior art steam pans are covered to prevent by-products from dripping into them. (Robertson Decl. ¶8). As seen, the steam pan in the reference is narrower than the cooking racks and does not function as a by-product collection pan.

The internal drip pan of the present invention provides many benefits not seen in the prior art. The pan catches virtually all the drippings or by-products which can be used to make gravies, au jus and so forth. (Robertson Decl. ¶12a). Because the drip pan is on the inside of the oven, the by-products are maintained at cooking temperature, which keeps them from getting rancid. (Robertson Decl. ¶12b). The airflow path of the present invention directs heated air to the drip pan. Also, the by-products in the dip pan

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are not exposed to an unsanitary environment. (Robertson Decl. ¶12b). The by-products are useful and can be used to prepare au jus, gravies or other useful products usually purchased by the restaurant owner. (Robertson Decl. ¶12b). Using the by-products improves the efficiency of the cooking process and helps lower costs. (Robertson Decl. ¶12c).

The novel design also allows a chef to cook a complete meal including meats, potatoes and vegetables, for example, in one cooking cycle. (Robertson Decl. ¶¶ 12e). The oven of the present invention allows the preparation of fresh foods in a more economical manner and that are superior to pre-cooked foods. (Robertson Decl. ¶¶ 12d-e.). In prior art ovens, for example those shown in the cited references, the only drip pan is located outside the oven where the by-products are exposed to possible contaminants and to ambient temperatures rendering the by-products unfit for use. (Robertson Decl. ¶12f). The invention can include a drain hole and external drain pan to collect overflow, spillage, or condensation but in actual use very little by-product is collected in the external pan. (Robertson Decl. ¶12g). The internal collection pan keeps most of the by-products from dripping onto the lower racks and bottom of the oven, so cleaning is easier. (Robertson Decl. ¶12h). This is because it extends substantially under the entire expanse of the cooking rack. It also prevents by-products from dripping into the steam reservoir so it can be used without a cover.

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The instant invention, e.g. claim 54, provides for a spigot on the collection pan which allows the user to drain the by-products into a sanitary vessel for use so that the user does not have to remove a collection pan full of hot by-products. (Robertson Decl. ¶12i). This feature is not disclosed in the cited references. The back page of the cited reference *Introducing The Best Thing To Happen To Ribs Since Eve* shows an oven having an external drip pan at the bottom of the oven and outside the cooking chamber. (Robertson Decl. ¶10). This external design exposes the by-products to ambient air and temperatures and unsanitary conditions. (Robertson Decl. ¶12f). The by-products cannot be used to prepare food edible products. The steam source and/or smoke source of the prior art ovens is not located beneath the external drip pan.

Furthermore, the cited references do not disclose a programmable controller operatively connected to the heat source, the steam source and the flavor generator, the controller programmed to operate any one of the heat source, the steam source and the flavor generator in any predetermined sequence, and for any predetermined duration of time to provide optimum preparation and flavoring of the products, as provided by the independent claims. The cited references only disclose a "one touch program." a programmable controller operatively connected to the heat source, the steam source and the flavor generator, the controller programmed to operate any one of the heat source, the steam source and the flavor generator in any predetermined

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sequence, and for any predetermined duration of time to provide optimum preparation and flavoring of the products. (Robertson Decl. ¶¶13, 14).

As can be seen in the illustrated touch pad in the prior art reference, the controller provides for cooking temperature, cooking time and holding temperature. (Robertson Decl. ¶13). There is no disclosure of a controller that operates any one of the heat source, the steam source and the flavor generator in any predetermined sequence, and for any predetermined duration of time. (Robertson Decl. ¶14). That is because in the ovens shown in the prior art references the smoke and steam are "all or nothing" functions. (Robertson Decl. ¶13). The heat always is on and if the user doesn't want steam he does not put water in the steam pan or if he doesn't want smoke he leaves the wood chips out of the smoker. (Robertson Decl. ¶13). The multifunctional controller of the present invention allows closely controlled, versatile cooking cycles unknown before the present invention. (Robertson Decl. ¶¶ 15, 16). Also, the cited references do not disclose a chimney of the type called for by independent claim 54. (Robertson Decl. ¶17).

Submitted herewith as Exhibit B, for the Examiner's convenience, is a recent YieldKing 100A Operations Manual. This oven is one example of an oven constructed in accordance with the teachings of the present invention. The Operations Manual illustrates very well the features disclosed and claimed in the present patent application and which clearly are not shown in the cited references or any prior art. Page 3 of

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Exhibit A describes the multifunctional cooking feature of the present invention provided by the novel controller as "perfectly balanced series of methodologies to optimize finished protein product, resulting in an enhanced, more flavorful experience for your customer." Examples of multi-stage cooking cycles controlled by the novel controller are included at pages 8 and 9.

Based upon the foregoing, it is evident that the cited references do not disclose each and every element of the independent claims. Consequently, the claims are allowable over the references. Because the references to do not disclose all the elements of the independent claims, they cannot disclose all the elements of dependent claims 2-13 and 55, and those claims are allowable as well.

Applicant respectfully requests withdrawal of the rejections, reinstatement of the allowance of the claims and passage of the case to issue.

Respectfully submitted,

POLSTER, LIEDER, WOODRUFF, & LUCCHESI, L.C.

By



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